

REMARKS

This application has been carefully reviewed in view of the above-referenced Office Action, and reconsideration is requested in view of the following remarks.

Interview Summary

On February 27, 2007, the undersigned spoke with Examiner Pettitt regarding this application. During that interview, the Petri reference was primarily discussed and the undersigned presented the arguments below regarding the vent and drain spouts being in communication with the inner reservoir, and how the unitary lid structure serves both as a lid and a three way valve as explained below. The nature and content of proposed amendments to the claims (particularly claim 5) as presented below were also discussed. As a result, Examiner Pettitt agreed that features discussed including the location of the vent and spout and the operation of the lid in each of three positions distinguishes over the Petri reference. Examiner Pettitt indicated that he would do additional searching and would call the undersigned if any additional art was identified that might preclude issuance of a notice of allowance.

Applicants and the undersigned appreciate the courtesies extended by the Examiner during that interview, and look forward to working closely with Examiner Pettitt in advancing the present application toward allowance.

Regarding the Claim Objections

The objections to claims 8, 17 and 24 have been addressed by this amendment. Reconsideration and allowance are respectfully requested. Applicants appreciate the Examiner's attention to detail in identifying the noted errors.

Regarding the Rejections under 35 U.S.C. §103

Claims 5-24 have been rejected as unpatentable over Petri in view of Wandel and Booth, all of record. Applicant respectfully traverses the rejections, and requests reconsideration on the following basis.

To briefly summarize, the Office Action submits that Petri discloses most features as claimed except for the first and second taps of Wandel and Cup holders of Booth. Applicants respectfully disagree.

First consider independent claim 5. This claim calls for “a vent spout in fluid communication with the inner reservoir” and “a drain spout in fluid communication with the inner reservoir”. Petri has two liquid reservoirs defined by 16 and 17, but the drain spout and vent spouts are coupled to the outer reservoir 16 – not the inner reservoir.

Now consider that it is the inner reservoir that is primarily intended to carry ice and water to assist in maintaining the liquid in the outer reservoir at a cool temperature. The lid structure as claimed has “an outer seal adjacent a periphery thereof to seal the outer reservoir and an inner seal to seal the inner reservoir”. Petri has three lids 12, 25 and 31 which collectively seal and cover the two reservoirs. It is noted that to empty the inner reservoir defined by 17, it would appear that all three lids must be removed.

Applicants’ claim (as amended for clarity) goes on to call for “when the lid is fully engaged with the housing, both the inner and outer reservoirs are sealed by the inner and outer seals and the vent spout and drain spout are closed” and further calls for “when the lid is lifted from full engagement without removal from engagement with the housing, the vent spout and drain spout are revealed to permit draining the inner reservoir through the drain spout and venting through the vent spout to facilitate the draining, without permitting fluid communication between the inner and outer reservoirs.” Petri, and indeed none of the art of record has a single lid structure that is movable to three positions:

- 1) “fully engaged” in which the lid seals both inner and outer reservoirs;
- 2) “lifted from full engagement without removal” in which movement to this position opens the vent spout and drain spout to permit draining the inner reservoir without draining the outer reservoir; and
- 3) “removed” in which both the inner and outer reservoirs are opened and exposed.

It is noted that the “removed” position is explicit in the claims as originally presented, but the present claims have been amended to clarify the actions that naturally flow from placing the lid in the removed position as a third wherein clause.

It is appreciated that the Petri device can accomplish drainage of the inner reservoir without draining the outer reservoir (and vice versa), but complete removal of the lid (cover) 12 is required to access either compartment. Draining the inner compartment then apparently requires removal of cover 31 and then removal of cover 25. By contrast, the present claims permit drainage of the inner reservoir (generally the least accessible) without complete removal of a lid. This permits drainage of water while retaining some or all of the ice, and further prevents introduction of heat and contamination by full removal of the lid. This is neither taught nor suggested by the cited art. It is also noted that quickly draining water the inner reservoir is most difficult, since it is separated from the outside by the outer reservoir. Applicants have solved this problem by use of the three position lid structure claimed and described above in cooperation with the spout and vent structure that is revealed in the second position where the lid is lifted from full engagement without removal.

As a result, it is noted that Applicants' single lid having two seals, in conjunction with molding of the drain spout and vent spout into the inner reservoir shell allows for those four parts to do a job that, in Petri, requires three lids, two seals, a reservoir, a drain valve, a vent, and a vent cap (at least nine parts – excluding the separate parts of valve 29) while still failing to meet the claim features. Even then, it is again noted that Petri's drain system is installed on an outer reservoir and thus fails to meet the features that provide for drainage of the inner reservoir as described. In Petri, the inner reservoir has its own cover and seal.

In the claims as presented, the Petri reference fails to meet the claim feature of “when the lid is lifted from full engagement without removal, the vent spout and drain spout are revealed to permit draining the inner reservoir through the drain spout and venting through the vent spout to facilitate the draining, without permitting fluid communication between the inner and outer reservoirs.” (emphasis added) In accordance with MPEP 2143.03 all claim limitations must be taught or suggested by the art to establish *prima facie* obviousness. Hence, it is submitted that failure to identify the cited feature in any of the cited references renders the rejection flawed. This is without regard for the amendment presented. With the clarification of the third position of the lid, it is clear that the present claim is neither taught nor suggested by the cited art. Hence, reconsideration and allowance are respectfully requested.

In view of the failure of Petri to meet the claim features as explained above, the combination of Petri with Wandel and Booth fails to meet all claim features, and hence *prima facie* obviousness has not been established.

Regarding claims 6-24, the above remarks are equally applicable, hence reconsideration and allowance of all claims are respectfully requested.

Concluding Remarks

The undersigned additionally notes that many other distinctions exist between the cited art and the claims. However, in view of the clear distinctions pointed out above, further discussion is believed to be unnecessary at this time. Failure to address each point raised in the Office Action should accordingly not be viewed as accession to the Examiner's position or an admission of any sort. No amendment made herein was related to the statutory requirements of patentability, but instead were made to clarify that which was already explicit. No amendment made was for the purpose of narrowing the scope of any claim.

Interview Request

In view of this communication, all claims are now believed to be in condition for allowance and such is respectfully requested at an early date. If further matters remain to be resolved, the undersigned respectfully requests the courtesy of an interview to expedite allowance of the current application. The undersigned can be reached at the telephone number below.

Respectfully submitted,

/Jerry A. Miller 30779/

Jerry A. Miller
Registration No. 30,779

Dated: 2/27/2007

Please Send Correspondence to:
Jerry A. Miller
Miller Patent Services
2500 Dockery Lane
Raleigh, NC 27606
Phone: (919) 816-9981
Fax: (919) 816-9982
Customer Number 24337